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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/340,349	06/25/1999	ICHIRO UCHIZAKI	005702-20019	3779

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87788.0009

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EXAMINER	
YOUNG, WAYNE R	
ART UNIT	PAPER NUMBER
2651	

DATE MAILED: 11/28/2001

This Matter Docketed
For: 12/28/01 (RP)

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/340,349	Uchizaki et al.
Examiner	**Art Unit**
W. R. Young	2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-30 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims 1-30 are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-13, drawn to a laser array with substrate and first/second laser elements specifics, classified in class 372, subclass 39+.

II. Claims 14-18, drawn to a method of manufacturing a laser array with making double-heterostructures of layers forming first/second elements, etching layers forming stripes, and making a separation groove, classified in class 216, subclass 13+.

III. Claims 19-28, drawn to an optical integrated unit with laser array and detector means, classified in class 369, subclass 120.

IV. Claims 29-30, drawn to optical pickup with an optical integrated unit with laser array, detector means, and holographic optical element or optical system, classified in class 369, subclass 112.01+.

2. Inventions III and IV are not patentably distinct.

3. The inventions are distinct, each from the other because of the following reasons: Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by a process not having making double-heterostructures of layers forming the first/second elements, etching layers forming stripes, and making a separation groove. Also, the product does not require double-heterostructures, stripes, nor a separation groove.

4. The inventions are distinct, each from the other because of the following reasons: Inventions II and III/IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by a process not having making double-heterostructures of layers forming the first/second elements, etching layers forming stripes, and making a separation groove. Also, the product does not require double-heterostructures, stripes, nor a separation groove. Further, the product includes other elements such as detector means, holographic optical element, and optical system that are not even related to the process.

5. Inventions III/IV and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the optical unit/pickup does not require the first/second laser elements specifics such as cladding layers and current blocking layer. The subcombination has separate utility such as with a laser printer.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. The following election of species requirements are made:

a. In the event Restriction Group I is elected:

This application contains claims directed to the following patentably distinct species of the claimed invention:

The laser array of figure(s):

a. 9 and 19,

b. 24A,

c. 24B,

d. 24C,

e. 24D,

f. 24E.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are considered generic.

b. In the event Restriction Group III/IV is elected:

This application contains claims directed to the following patentably distinct species of the claimed invention:

The optical unit/pickup of figure(s):

a. 1-5,

b. 6,

c. 7A-7B,

d. 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. R. Young whose telephone and VoiceMail number is (703) 308-1554. If a plurality of attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth, can be reached on (703) 308-4825.

The appropriate fax phone number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700 or the Group Customer Service section whose telephone number is (703) 306-0377.

WAYNE R. YOUNG
PRIMARY EXAMINER
ART UNIT 2651

wry/wry
November 15, 2001

CV

PATENT
81788.0009
(Former Docket No. 005702-20019)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ichiro UCHIZAKI, et al.

Serial No: 09/340,349

Filed: June 25, 1999

For: SEMICONDUCTOR LASER ARRAY AND ITS MANUFACTURING METHOD, OPTICAL INTEGRATED UNIT AND OPTICAL PICKUP

Art Unit: 2651

Examiner: Young, Wayne R.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9314 on :

December 19, 2001
Date of Deposit

Kimberly Yee 12/19/01
Name Date

Kimberly Yee
Signature

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement dated November 28, 2001, Applicant, without traverse, elects for prosecution the claims of Group III, species a, the embodiment of the optical unit/pickup shown in FIGS. 1-5. The claims readable on species a of Group III are claims 19, 20, 25, 26, and 28.

If there are any fees in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: December 19, 2001

By: _____
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